IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

FAO.No. 93 of 2003()

AGAINST THE ORDER DATED 19/11/2002 IN IA.303/2001 IN OS.69/1998 of SUB COURT, TIRUR
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APPELLANT/PETITIONER/DEFENDANT:

NOUSHAD S/O. KOLAMBIL MOHAMMED,
KARATHOOR, TIRUR TALUK, MALAPPURAM DISTRICT BY
POWER OF ATORNEY HOLDER V.E.SHAMSUDDIN
S/O. SAIDALAVI, VADAKKUVEETTIL, PACHATTIRI,
TIRUR TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.T.KRISHNANUNNI

RESPONDENT/PETITIONER:

KADAVATH KUNHUMUHAMMED,
S/O. KOYASSAN HAJI, THRIKKANDIYUR, TIRUR TALUK,
MALAPPURAM DISTRICT

BY

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION ON 01/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & K.T. SANKARAN, JJ.

F.A.O. NO.93 OF 2003

Dated this the Ist March, 2007

J U D G M E N T

The appeal is against the order dated 19.11.2002 in I.A.303/01 in O.S. No.69/98 on the file of the Subordinate Judges Court, Tirur. The application was filed under Order 9 Rule 13, C.P.C for setting aside the exparte decree dated 16.7.1999. The court below found that the power of attorney holder of the petitioner had filed I.A. 1034/1999 for setting aside the exparte decree and the same was dismissed for default on 20.6.2000. Hence, the court rightly held that unless steps are taken for restoring the said I.A. No.1034/999, a fresh application, for setting aside the exparte decree, is not maintainable. There is no merit in the appeal and it is accordingly dismissed.

KURIAN JOSEPH, JUDGE.

K.T. SANKARAN, JUDGE.

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